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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,402	08/02/2000	Gongpu Yan	006593-01874	8843

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EXAMINER

GOODMAN, CHARLES

ART UNIT PAPER NUMBER

3724

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/630,402	YAN ET AL.	
	Examiner	Art Unit	
	Charles Goodman	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1, 15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Preliminary Amendment filed on October 9, 2001 has been entered.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18, drawn to a belt tensioner, classified in class 474, subclass 101.
 - II. Claim 19, drawn to a slicer, classified in class 83, subclass 703.
 - III. Claim 20, drawn to a mixer, classified in class 366, subclass 249.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions II-III and I are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a spring is located adjacent said nut that exerts a reactive force against said nut when said nut is threaded in a first direction along said rod to cause said motor to pivot. The subcombination has separate utility such as a tensioner for a motor vehicle transmission.

4. Because these inventions are distinct for the reasons given above and the search required for mixers or slicers is not required for tensioners, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Steven J. Elleman on October 3, 2001 a provisional election was made without traverse to prosecute the invention of Group II,

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claim 19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-18 and 20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

However, due to the fact that the Preliminary Amendment filed on October 9, 2001 changed the dependencies of claims as well as amendments directed toward the slicer, claims 2-14 and 16-18 have been rejoined as part of the provisionally elected invention. Thus, claims 1, 15, and 20 have been withdrawn from consideration, and claims 2-14, 16-19, 21, and 22 remain for consideration on the merits.

Drawings

6. The drawings are objected to because the bordering and other superfluous details not directed toward the invention, e.g. legend, in Figs. 1-3 should be deleted. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "lever mechanism" (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

8. The disclosure is objected to because of the following informalities:

- i. P. 4, ll. 19-20, the phrase "spring deflection 46" is not clearly understood. Reference "46" has been used to refer to the spring and not the deflection. Cancellation of reference "46" or any other appropriate amendments would overcome this objection.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 2-14, 16-19, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- i. Claim 14 is vague and indefinite in that it is not clear what the claim encompasses. Where is this shown in the drawings?
- ii. In claim 17, l. 1, the phrase "in a" should read -- is a --.
- iii. In claim 19, l. 9, the phrase "can be..." is vague and indefinite in that it is not clear whether the relevant features are able to perform this function. In l. 13, the phrase "the advancement" should read -- advancement --. Substantially the same applies to claims 21-22.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. As best understood, claims 2-14, 16-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Klingens et al.

Klingens et al discloses a slicing machine comprising all the elements claimed including, inter alia, a slicer body (1, 2); a rotatable blade (5); a reciprocable tray (6); a pivotable motor (3) having an output pulley (36, 37); a belt tensioning device (60, 61, 63, 65, 66, 67, 51); a belt (64); a threaded rod (61); an anchor component (53); a nut (66); a spacer (63); a lock nut (61); and an arm (57). See Figs. 1-10, c. 7, l. 58 - c. 9, l. 3.

Conclusion


13. Davidson et al, Hochanadel, Soleri, Hess, Olsen, Cooper, Van Hoorn, Folk, Hobart et al, Van Duyn, Henkel, Campbell, Van Berkel, Thomas, Bryan, Pease, and Nunan are cited as pertinent art.


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

cg 
June 17, 2002


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER